

## Bureau of Industry and Security, Commerce

## § 752.7

user(s) (except those located in Country Group A:3) (see Supplement No. 1 to part 740 of the EAR) certifying the following:

No chemicals or chemical equipment received under this Special Comprehensive License will be transferred, resold, or reexported to a destination or end-user that requires a license, unless the new end-user has been approved by the Bureau of Industry and Security, and in no case will the items be transferred, resold, or reexported to a party who is not the end-user.

(iii) *Nuclear nonproliferation certification.* If you are requesting the export or reexport under the EAR of items controlled for nuclear nonproliferation reasons described in §744.2(a) of the EAR, prior to submitting an SCL application, you must obtain a signed written statement on company letterhead from the proposed consignee(s) and end-user(s) certifying the following:

(A) The items to be exported or replicas thereof (“replicas” refer to items produced abroad based on physical examination of the items originally exported, matching it in all critical design and performance parameters), will not be used in any of the activities described in §744.2 of the EAR; and

(B) Written authorization will be obtained from BIS prior to transferring or reexporting the items, unless they are destined to Canada or would not require a license to the new country of destination.

[61 FR 12835, Mar. 25, 1996, as amended at 61 FR 64285, Dec. 4, 1996; 62 FR 25463, May 9, 1997; 73 FR 68327, Nov. 18, 2008]

### § 752.6 Reexports.

(a) *Authorized reexports.* All consignees may reexport items without approval from BIS under any one of the following circumstances, unless otherwise specifically excluded by the provisions of the EAR or by a condition placed on your SCL.

(1) Reexports that qualify for a License Exception authorized by part 740 of the EAR;

(2) Reexports to destinations approved by BIS through validation of Form BIS-752 and/or Form BIS-752-A according to the terms stated on the Form BIS-752 or BIS-752-A; or

(3) Reexports of items approved under an SCL to and among other consignees

approved on the same SCL, provided that the items are eligible to the new destination in accordance with your approved SCL and §752.3 of this part.

(b) *Prohibitions.* You are prohibited from the following activities without specific authorization from BIS:

(1) Transferring, reselling, or reexporting under your SCL any chemicals or chemical equipment identified with the letters “CB” in the applicable “Reason for Control” paragraph on the CCL (see Supplement No. 1 to part 774 of the EAR); and

(2) Reexporting under your SCL items identified by the letters NP in the applicable “Reason for Control” paragraph on the CCL to destinations not listed in country group A:4 (see Supplement No. 1 to part 740).

(c) *Sourcing.* Consignees who obtain U.S.-origin items abroad that are eligible for the SCL but that are subject to General Prohibitions One, Two, or Three (see part 736 of the EAR) may reexport them under the authority of your SCL, provided that they are reexported in accordance with the ICP required by §752.11 of this part, and any other applicable conditions or reexport restriction placed on your SCL by BIS. Either the SCL holder or the consignee through the SCL holder must submit the sourcing request for reexport of items on Form BIS-752.

[61 FR 12835, Mar. 25, 1996, as amended at 62 FR 25464, May 9, 1997; 72 FR 43532, Aug. 6, 2007]

### § 752.7 Direct shipment to customers.

(a) *General authorization.* (1) Upon request by a consignee, an SCL holder or another consignee approved under the same SCL is authorized to deliver products directly to the requesting consignee’s customer in either:

(i) The requesting consignee’s country; or

(ii) Another country authorized to receive items under the requesting consignee’s validated Form BIS-752-A.

(2) The SCL holder or consignee making direct shipments authorized by this section must implement an ICP containing procedures governing such shipments.

(3) SCL holders and consignees using the direct shipment provision may invoice the shipments directly to the requesting consignee's customers if copies of applicable invoices are maintained by both the shipping party and requesting consignee.

(b) *Procedures*—(1) *Exports by an SCL holder*. The SCL holder may make a direct shipment by entering on the Shipper's Export Declaration or Automated Export System record the name and address of the customer as ultimate consignee and adding the notation "by order of (name and address of consignee requesting the direct shipment)." The notation must appear below the item description and must cite the SCL number followed by the three digit number of the consignee requesting the "by order of" shipment.

(2) *Reexports by a consignee*. An approved consignee may make a direct reexport shipment to a customer of another approved consignee on the same SCL by showing on the commercial invoice the name and address of the customer as ultimate consignee and adding the notation "by order of (name and address of consignee requesting the direct shipment)."

[61 FR 12835, Mar. 25, 1996, as amended at 68 FR 50473, Aug. 21, 2003]

#### § 752.8 SCL application review process.

(a) *Scope*. Under an SCL, you are authorized to make multiple exports and reexports without review and approval of each individual transaction by BIS. To approve an SCL, BIS must be satisfied that the persons benefiting from this license will adhere to the conditions of the license and the EAR, and that approval of the application will not be detrimental to U.S. national security, nonproliferation, or foreign policy interests. In reviewing and approving a specific SCL request, BIS retains the right to limit the eligibility of items or to prohibit the export, reexport, or transfer (in-country) of items under the SCL to specific firms, individuals, or countries.

(b) *Elements of review*. To permit BIS to make such judgments, BIS will thoroughly analyze your past export and reexport transactions, inspect your export and reexport documents, and

interview company officials of both the applicant and the consignees, as necessary. If BIS cannot verify that an appropriate ICP will be implemented upon approval of the SCL by BIS, or establish the reliability of the proposed parties to the application, it may deny the application, or modify it by eliminating certain consignees, items, countries, or activities.

(c) *order requirement*. You do not need to have in your possession an order from the proposed consignee at the time you apply for an SCL. However, evidence of a consignee's firm intention to place orders on a continuing basis is required.

(d) *Criteria for review*. BIS will consider the following factors during the processing of your SCL application:

(1) The specific nature of proposed end-use and end-uses;

(2) The significance of the export in terms of its contribution to the design, development, production, stockpiling, or use of nuclear or chemical or biological weapons, or missiles;

(3) The types of assurances against design, development, production, stockpiling, or use of nuclear or chemical and biological weapons, or missiles that are included in the ICP;

(4) The nonproliferation credentials of the importing country;

(5) Corporate commitment of the resources necessary to implement and maintain an adequate ICP;

(6) Evidence of past licensing history of the applicant and consignees, and projected, continuous large volume exports and/or reexports;

(7) Reliability of all parties;

(8) Information on all parties' compliance with the provisions of the EAR; and

(9) All parties' knowledge of the EAR.

(e) *Application processing time-frames*. Upon receiving an SCL application, BIS may review the application for up to two weeks to determine whether the SCL application is complete. When all documentation requirements are met, BIS will register the application. After the date of registration, the SCL application will be processed according to